

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**WATER DIVISION
AUDIT AND COMPLIANCE BRANCH**

**RESOLUTION NO. W-4460
February 11, 2004**

R E S O L U T I O N

**(RES. W-4460), POINT ARENA WATER WORKS, INC. (PAWW).
ORDER AUTHORIZING AN INCREASE IN THE SURCHARGE
RATES AUTHORIZED IN RESOLUTION NO. (RES.) W-4233.**

By Advice Letter No. 44 filed on October 10, 2002.

SUMMARY

This Resolution grants PAWW the authority requested in Advice Letter (AL) No. 44, in which PAWW seeks to increase the surcharge rates previously authorized in Res. W-4233 to correct a prior error in calculation, reflect the correct and current number of customers by meter size, and provide funds for the recovery of the shortage in its balancing account (such correction and recovery are collectively referred to as the "Adjustment").

BACKGROUND

PAWW is a Class D water utility subject to the jurisdiction of this Commission. PAWW provides service to the City of Point Arena and vicinity, and the Whiskey Shoals Subdivision Unit Nos. 1,2, and 3, in Mendocino County.

Res. W-4233 dated November 21, 2000, authorized PAWW to:

1. Borrow a total of \$37,458 from Bed-Rock, Inc. (BRI), an affiliate company, at 9.5% interest for 96 months, for the construction of a building to house an auxiliary generator and to pay for the cost and installation of a redwood tank.
2. Implement a surcharge to repay the loan principal and interest.

Ordering Paragraph 8 of Res. W-4233 states:

“On or before July 31, 2001, and yearly thereafter, for as long as the surcharge is imposed, Point Arena Water Works, Inc. shall send a comparative report to the Water Division stating the changes in the number of connections by type of customer and by size of connection, the amount of surcharge collected, the amount of repayments made, the outstanding balance of the loan, and the overages and shortages in the utility’s balancing account. Point Arena Water Works, Inc. shall also indicate in the report if an advice letter will be forthcoming to reflect changes in the rate surcharges.”

PAWW acknowledges that when the surcharge rates authorized by Res. W-4233 were implemented, the company mistakenly charged some customers too much. For twelve months, 152 customers with 5/8-inch meter size were charged the higher surcharge rate associated with the 3/4-inch meter¹. PAWW caught this mistake and commencing January 2002, the company corrected the billing but did not refund previous overcharges. After correction of their overcharge mistake, PAWW realized that the overall collection did not provide adequate revenues to service the loan. This is because PAWW provided erroneous information to the Commission regarding the customer distribution by meter size when the surcharges were first calculated.

AL 44 seeks the Adjustment to properly service the loan.

On November 15, 2002, a notice of the proposed increase in surcharge rates expressed in dollar and percentage terms was published in the Independent Coast Observer, a newspaper printed and published every week in the town of Gualala and circulated in South Mendocino County and Northern Sonoma County.

The Water Division received a letter from the Mayor of Point Arena dated November 27, 2002 stating her objection to the surcharge increase.

Specifically, the Mayor states that newspaper publication of the surcharge increase is not sufficient; there should be some form of compensation to

¹ Resulting in an overcharge of \$0.80 per month or \$9.60 for twelve months per customer.

customers billed with the incorrect surcharge; and PAWW not remitting the surcharge funds to the lender.

The Mayor also questioned why ratepayers have to pay for the Whiskey Shoals improvements (redwood tank) which it claims is a nonpublic water system that provides no benefit to them (the Department of Health Services (DHS) does not recognize the Whiskey Shoals system as a public water system)².

On December 6, 2002, the Water Division received by facsimile PAWW's response to the Mayor. PAWW claims that the utility followed the Water Division's staff instruction on noticing the public; Whiskey Shoals has been in the utility's service area since 1971; and that surcharge funds have been used to pay other expenses.

On February 7, 2003, Draft Res. W-4368 of the Water Division pertaining to AL 44 was noticed to the parties in accordance with Public Utilities (Pub. Util.) Code § 311(g). The Mayor filed comments on February 19, 2003. Some of the concerns reiterated were: 1) inadequate notice, 2) purpose of the surcharge, and 3) misuse of the surcharge. No reply comments were received.

By letter dated March 28, 2003, the Water Division instructed PAWW to notify each customer of the proposed surcharge and to provide the Water Division some additional information to the AL.

PAWW provided the following information to the Water Division between May 23, 2003 and January 13, 2004:

1. On June 30, 2003, individual notice to customers by bill insert of the proposed surcharge (based on an updated May 23, 2003 list of customers) was mailed out. PAWW also conducted a public notice by newspaper publication on July 4, 2003.
2. On November 4, 2003, PAWW refunded the overcharge amounts collected in the year 2001 to the 5/8-inch customers and debited this amount in the balancing account. A total of \$1,423.20 was

² Pursuant to Commission Decision (D.) No. 78384 dated March 2, 1971, the Whiskey Shoals system has been part of PAWW's certificated service area and as such falls under the jurisdiction of this Commission. The City and Whiskey Shoals customers pay the same rates for water service and, therefore, should share the cost of providing service and system improvements service-area wide, whether or not the systems are contiguous.

paid out by credit to 130 customers, and by check to 26 customers, who are no longer in the water system. The total amount of \$25.60 for six customers was undeliverable due to no forwarding address and remains as a credit in the balancing account. The list of customers given the refund is on file with the Water Division.

3. Total surcharge collected from January 2001 to January 2004 is \$17,576.60.
4. By letter dated January 13, 2004, PAWW notified the Water Division that as of this date, loan payments made to BRI total \$20,109.60. The account is up-to-date, with a remaining term of 60 months. At the time of the Mayor's protest, she was correct that PAWW had not remitted to BRI the total surcharges collected. That problem was corrected in January 13, 2004.
5. The balancing account reflects a total shortage of \$3,963.84³ (projected to February 2004, to coincide with the Commission meeting date).

NOTICE AND PROTESTS

On November 15, 2002, notice of PAWW's proposed increase in surcharge rates was published in the Independent Coast Observer.

By letter dated November 27, 2002, the Mayor correctly objected to PAWW's proposed surcharge increase. Overcharged customers should receive refund and PAWW should remit to BRI all surcharges collected.

On December 6, 2002, PAWW responded to the Mayor's concerns.

On February 7, 2003, draft Res. W-4368 was noticed to the parties.

On February 19, 2003, the Mayor filed her comments.

³ Undercollection from January 2002 to Feb. 2004 in the amount of \$2,540.64 plus surcharge refunded in the amount of \$1,423.20.

On June 30, 2003, PAWW sent out individual notice to customers of the proposed surcharge (based on a May 23, 2003 list of customers).

On July 4, 2003, PAWW made a public notice by newspaper of the proposed surcharge.

On November 4, 2003, PAWW refunded the overcharge amounts to the 5/8-inch customers.

On January 13, 2004, PAWW remitted all surcharges collected to BRI and brought the loan account up-to-date.

DISCUSSION

This matter before us includes both improper overcharges to some customers as well as an incorrect surcharge rate schedule. The surcharge rate schedule authorized in Res. W-4233 was based on the number of customers by meter size provided by PAWW. As noted above, that information was incorrect and when the existing surcharges are applied to the correct meter sizes, the utility is short of the required monthly payment amount. The annual payment for the loan as stated in Res. W-4233 is \$6,703.20 or \$558.60 per month. The monthly surcharge collection amounts only to approximately \$446.20, bringing about a shortfall of \$112.40 per month.

Since January 2003, PAWW has been paying the monthly loan payment of \$558.60 and incurring a monthly undercollection of approximately \$112. As a result, to-date the undercharge is represented as a shortage in the balancing account of \$3,963.84.

On November 4, 2003, PAWW refunded the overcharge amounts collected in the year 2001 to the 5/8-inch customers and recorded this transaction in its balancing account.

PAWW is a fiduciary conduit for the collection and disbursement of the surcharge revenues authorized in Res. W-4233. The funds do not belong to PAWW. Use of surcharge funds, other than in the manner prescribed in the financing authority, constitutes a misappropriation of funds.

On January 13, 2004, PAWW, after discussion with staff and to address the Mayor's concern, made a payment of \$12,847.80 to BRI to bring its loan payments current and up-to-date.

Because PAWW has completed the refund of the overcollection and has remitted all surcharges collected to BRI, the balancing account discrepancies have been rectified and AL No. 44 filed October 10, 2002 should now be approved.

A comparison of the erroneous customer distribution and the current and accurate distribution of customers by meter size follows:

<u>Size of Meter</u>	<u>Erroneous # of Customers used in Res. W-4233</u>	<u>Current # of Customers as of 1/09/04</u>
5/8 x 3/4" meter	0	155
3/4" meter	162	9
1" meter	10	8
1 1/2" meter	0	0
2" meter	4	6
3" meter	0	0
4" meter	2	2
6" meter	<u>0</u>	<u>0</u>
Total	<u>178</u>	<u>180</u>

The surcharge rates have been corrected based on the outstanding balance of the loan of \$33,516 and the shortage in the balancing account. The adjusted monthly revenue requirement is \$635.25.

PAWW's present charges for water service were authorized by Res. W-4356 effective October 30, 2002, which authorized an interim increase in rates subject to refund, producing additional annual revenues of \$70,137 or 56.9% in PAWW's general rate case.

The proposed surcharge rates are as follows:

Service Charge:

<u>Size of Meter</u>	<u>Present Rate Per Meter Per Month</u>	<u>Present Surcharge Per Month</u>	<u>Proposed Surcharge Per Month</u>	<u>Increase</u>	<u>% Inc.</u>
5/8 x 3/4" meter	\$ 42.93	\$ 1.60	\$ 2.22	\$ 0.62	38.7%
3/4" meter	54.18	2.40	3.33	0.93	38.7%
1" meter	67.69	4.00	5.54	1.54	38.5%
1 1/2" meter	94.80	8.00	11.09	3.09	38.6%
2" meter	126.33	12.80	17.74	4.94	38.6%
3" meter	214.33	23.95	33.26	9.31	38.8%
4" meter	291.52	39.90	55.43	15.53	38.9%
6" meter	484.47	79.80	110.86	31.06	38.9%

As shown below, the proposed surcharge schedule will generate a monthly collection of approximately \$635.00, sufficient to pay BRI the monthly loan payment of \$558.60 and over time, eliminate the shortage in the balancing account.

<u>Size of Meter</u>	<u>Surcharge</u>	<u># of Connection</u>	<u>Total per Month</u>
5/8 x 3/4" meter	\$ 2.22	155	\$344.10
3/4" meter	3.33	9	29.97
1" meter	5.54	8	44.32
1 1/2" meter	11.09	0	0
2" meter	17.74	6	106.44
3" meter	33.26	0	0
4" meter	55.43	2	110.86
6" meter	110.86	<u>0</u>	<u>0</u>
		180	<u>\$635.69</u>

The monthly bill for a typical 5/8" metered customer using 630 cubic feet of water would increase from \$75.78 to \$76.40 or 0.82%. Approximately 86% of Point Arena's customer base have 5/8" meters.

We have reviewed PAWW's request for the Adjustment and have determined that it is reasonable and for proper purposes.

We will authorize PAWW's surcharge increase. The adjusted surcharge will be sufficient to make the principal and interest payments on the loan, and make whole the shortage in the balancing account. There will be no profit for the utility owners. The surcharge increase will be governed by the same conditions set forth in Res. W-4233, with the following additions to ensure proper accounting and handling:

1. PAWW should open a separate bank account and deposit therein all rate surcharges within thirty days of collection.
2. PAWW should provide the Director of the Water Division a quarterly summary detailing the amounts of receipts and disbursements in the surcharge bank account.
3. PAWW should maintain, and within thirty days from request provide, the Director of the Water Division any documents, bank statements, and information related to the loan and surcharge collection.
4. PAWW should continue recording all billed surcharge and the accrued interest on the revenues in its balancing account. The balancing account should be charged with payments of principal and interest on the loan. The balancing account should contain all surcharges collected from January 2001 and onwards, all payments against the loan, and all other transactions pertinent to Res. W-4233. PAWW between now and the termination of the surcharge shall also use the balancing account to record any omissions, corrections, or adjustments that maybe ordered by the Commission.
5. Commission staff will conduct periodic audit of PAWW's balancing account and the special bank account to ensure that all activities are in accordance with Commission's rules and orders.

We approve the proposed surcharge schedule attached to this order as Appendix A, so that PAWW will be able to generate the corrected monthly loan payment amount of approximately \$635.

Ratepayers are held indifferent to the lender/borrower repayment issue because the ratepayers will not pay more surcharges than what is required in the financing authority granted in Res. W-4233, as adjusted in this order.

The corrected surcharge authorized in this Resolution is based on information received by this Commission as of a certain date. There may be a lag in bookkeeping entries and additional activities may have transpired between the processing of this Resolution and the time the Commission renders its approval. Therefore, the surcharge rates authorized in this Resolution remain estimated, but calculated based on best information on hand.

FINDINGS

1. On October 10, 2002, PAWW filed AL No. 44 requesting a surcharge adjustment.
2. PAWW represents that in the original computation of the surcharge, 152 customers with 5/8-inch meter size were erroneously placed under the 3/4-inch category.
3. One hundred fifty two customers were charged the 3/4-inch surcharge for twelve months.
4. On February 7, 2003, draft resolution W-4368 was noticed to the parties in accordance with PU Code § 311(g). Subsequently, draft resolution W-4368 was withdrawn by the Water Division.
5. On February 19, 2003, the City submitted its comments.
6. On June 30, 2003, PAWW notified each customer of the proposed surcharge adjustment based on the May 23, 2003 number of customers.
7. On July 4, 2003, PAWW conducted a newspaper publication of the proposed surcharge adjustment.
8. Between May 23, 2003 and January 9, 2004, PAWW provided supplemental information to the Water Division, including the January 9, 2004 updated number of customers.
9. The current monthly revenues from PAWW's surcharge are less than the monthly loan payments.
10. PAWW's balancing account reflects a shortage of \$3,963.84.

11. PAWW's loan payments to BRI total \$20,109.60, and the account is presently up-to-date.
12. On November 4, 2003, PAWW refunded (by credit or check) the total amount of \$1,423.20 to the 5/8-metered customers who were previously overcharged.
13. The surcharge rates authorized in this Resolution are reasonable, and the rate increases are justified.
14. PAWW's proposed surcharge rates would generate approximately \$7,623 per year or \$635 per month to repay the remaining balance of the loan authorized by Res. W-4233 and to make whole the shortage in the balancing account.
15. The proposed rate surcharge will increase the water rates by \$0.62 per month for approximately 86% of PAWW's customers.
16. PAWW's Whiskey Shoals water system has been part of its certificated service area as authorized in D.78384.
17. It is PAWW's responsibility to review annually the rate surcharge and adjust as necessary, by the advice letter procedure, the rate surcharge to reflect changes resulting in overages and shortages in the balancing account, and the number of customers.
18. It is PAWW's responsibility to continue recording in its balancing account all surcharges collected and all payments made against the loan.
19. Pub. Util. Code § 856 provides that every officer, agent or employee of a public utility, or of a subsidiary or affiliate of, or a corporation holding a controlling interest in, a public utility, and every other person subject to the requirements of this article, who violates or fails to comply with, or procures, aids, or abets any violation of, this article is guilty of misdemeanor.

THEREFORE, IT IS ORDERED THAT:

1. Point Arena Water Works, Inc. is authorized to file in accordance with General Order No. 96-A, and make effective on five days' notice, an advice letter which implements the rate surcharges attached to this order as Appendix A.

2. Point Arena Water Works, Inc. shall to send a comparative report to the Water Division on or before July 31, 2004, stating the changes in the number of connections by type of customer and by size of connection, the amount of surcharge collected, the amount of repayments made, the outstanding balance of the loan, and the overages and shortages in the utility's balancing account.
3. Point Arena Water Works, Inc. shall open a separate bank account and deposit all rate surcharges within thirty days of collection.
4. Point Arena Water Works, Inc. shall continue using a balancing account to be credited with revenue collected through the surcharge and the accrued interest on the revenue. The balancing account shall be charged with payments of principal and interest on the loan.
5. Point Arena Water Works, Inc. shall provide the Director of the Water Division a quarterly summary detailing the amounts of receipts and disbursements in the surcharge bank account.
6. Point Arena Water Works, Inc. shall maintain, and within thirty days from request provide, the Director of the Water Division any documents, bank statements, and information related to this proceeding.
7. Commission staff will conduct periodic audits of Point Arena Water Works, Inc.'s books and the special bank account to ensure that all activities are in accordance with Commission's rules and regulations.
8. As a condition of the rate increase granted herein, Point Arena Water Works, Inc. shall be responsible for refunding or applying on behalf of the customers any surplus accrued in the balancing account when ordered by the Commission.

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9. In all other respects, Resolution W-4233 remains in full force and effect.
10. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on February 11, 2004; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

APPENDIX A

Schedule No. 2-X

GENERAL METERED SERVICE SURCHARGE

APPLICABILITY

Applicable to all metered service. This surcharge is specifically for the repayment of the Bed-Rock, Inc. loan as requested in Advice Letter Numbers 36 and 37 filed on June 26, 2000 and revised in Advice Letter (T) Number 44 filed on October 10, 2002.

TERRITORY

The City of Point Arena and vicinity.

LOAN REPAYMENT SURCHARGE

<u>Size of Meter</u>	<u>Surcharge Per Meter Per Month</u>	
5/8 x 3/4" meter	\$ 2.22	(I)
3/4" meter	3.33	
1" meter	5.54	
1 1/2" meter	11.09	
2" meter	17.74	
3" meter	33.26	
4" meter	55.43	
6" meter	110.86	(I)

SPECIAL CONDITIONS

1. This surcharge is in addition to the water bill. The surcharge is specifically for the repayment of the Bed-Rock, Inc. loan authorized by Resolution No. 4233, as adjusted by Res. No. W-4460. (T)
2. Point Arena Associates and Wharf Master Inn will be charged the 4-inch meter surcharge pursuant to Resolution No. 4233.